United Nations CCPR/C/SR.2259

International Covenant on Civil and Political Rights

Distr.: General
16 May 2005

Original: English

Human Rights Committee
Eighty-third session

Summary record of the 2259th meeting
Held at Headquarters, New York, on Wednesday, 16 March 2005, at 3 p.m.

Chairperson: Ms. Chanet

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Fourth periodic report of Iceland (*continued*)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the record of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

05-27206 (E)

The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Fourth periodic report of Iceland (*continued*) (CCPR/C/83/L/ISL; CCPR/C/ISL/2004/4; HRI/CORE/1/Add.26)

1. **The Chairperson** invited the delegation to respond to the oral questions put at the previous meeting by members of the Committee in connection with articles 2, 3 and 26, 8, 7, 10 and 14 of the Covenant (questions 1 through 9 of the list of issues (CCPR/C/83/L/ISL)).

2. **Ms. Árnadóttir** (Iceland) said that both the Human Rights Centre, run and partly financed by several non-governmental organizations, and the Human Rights Institute, run by the National University and partly financed from non-governmental sources, received government funding earmarked for human rights issues in the budget approved by Parliament, and that the funds were now allocated to them by the Ministries of Justice and Foreign Affairs.

3. The delegation was under the impression that the Committee had indeed received comments from Icelandic non-governmental organizations, given the references to them in its list of issues. Generally speaking, there were good relations between the Government and non-governmental organizations.

4. The core document (HRI/CORE/1/Add.26) definitely needed updating and the revision in progress should be complete by fall 2005.

5. **Ms. Ragnarsdóttir** (Iceland) said that the Public Announcements by the Ministry of Foreign Affairs, by which all Security Council resolutions were implemented in Iceland, had a legal basis in Act No. 5/1965 which established that procedure and also made any violation of a Public Announcement a criminal offence. Furthermore, the relevant provisions of the Covenant had been taken into account in the drafting of Act No. 99/2002, which had amended the General Penal Code to incorporate the substance of Security Council resolution No. 1373 (2001) on terrorism. The amendment of the Code had not aroused much public debate. Since under the Constitution (art. 69), there could be no punishment of a crime unless it was defined as such under the law, the Act defined a terrorist act as one intended to cause public fear and unrest; to illegally force public authorities to act or refrain from acting; and to cause serious harm to a State or international organization. Terrorist acts must also involve one of the violent and dangerous crimes specified in the Act. That provision in no way applied to peaceful demonstrations or even unruly demonstrations, for the right to demonstrate was strongly safeguarded by the Constitution and the Supreme Court.

6. The Government was certainly very concerned about the 15 per cent wage gap between men and women, and the hope was that the Maternity/Paternity Leave and Parental Leave Act No. 95/2000 discussed in the report should help equalize the situation — indeed, since its passage, 80 per cent of fathers had been taking leave — as should the fact that women constituted the majority of university students, thus preparing them for responsible posts in the future. Parliament had since 1992 tried to close the wage gap by adopting four-year action programmes for gender equality, and as a result, the number of women in the police force and prison management and in political office had risen by 8 to 10 per cent. Moreover, the conclusions of a committee report on ways of supporting women in business were being studied by the Ministry of Industry and Commerce. Also, over 1,000 women had participated in a special job creation project for women in 2000-2002, which had created over 200 new jobs.

7. Icelandic law did not permit extradition if the person would, in the country of destination, be subject to a death sentence, to torture or inhuman treatment, or to injustice or persecution for racial, religious or political reasons.

8. **Ms. Árnadóttir** (Iceland) said the Government believed that its procedures for the use of restraining orders to reduce domestic violence did not need to be simplified to make them more effective. She acknowledged that some victims had criticized the police for not requesting restraining orders often enough.

9. The Ministry of Justice and the Ministry of Social Affairs were working on a national action plan against trafficking in women. All non-governmental organizations supporting victims of violence and sexual abuse, such as the Women's Sanctuary, the

Centre for Sexual Abuse Victims and the Emergency Reception facility of the National University Hospital, received public funding.

10. **Ms. Ragnarsdóttir** (Iceland) said that, indeed, the statistical table provided in the Government's written responses to question 5 or the list of issues showed that many rape cases had not been prosecuted, generally because the Director of Public Prosecutions, on whom the burden of proof rested, lacked sufficient evidence. However, as indicated at the previous meeting, many measures were in place to help rape victims, in cooperation with the police. Under chapter VII of the Code of Criminal Procedure, the victims of sexual crimes were guaranteed free legal representation in all cases and could claim compensation during the court proceedings against the perpetrator.

11. **Ms. Árnadóttir** (Iceland) said that all claims of torture were investigated immediately and, once again the prosecutor bore the burden of proof. No further cases of harsh treatment had been reported, beyond the one described at the previous meeting. In Iceland, information or confessions obtained by torture or cruelty could never be admitted into evidence in legal proceedings, and persons could not be convicted of a crime based only on their confessions to the police.

12. There had indeed been instances of violence, both mental and physical, among prison detainees, but all such cases had been investigated and punished and one case had led to a conviction. It was not practical to set up separate institutions to detain juvenile offenders because they were so few: perhaps one a year was sentenced to prison, and would not benefit from being kept alone in separate detention. The European Council itself was no longer so adamant about the separation of adult and juvenile offenders.

13. Iceland had no plans to lift its reservations to article 20 of the Covenant so long as the reasons behind the reservation were still valid.

14. The Government believed that its Constitution already contained many of the provisions of the Covenant and, in any case, all the Covenant provisions were directly enforceable by law. The international human rights instruments had played an unexpectedly important role in the Icelandic legal order, for they had proved to have an influence on court interpretations of domestic law that could not have been foreseen.

15. **Ms. Ragnarsdóttir** (Iceland) said that all cases involving prison sentences, no matter how minor, could be appealed. According to the Code of Criminal Procedure, cases involving penalties other than imprisonment could be appealed only with Supreme Court permission, which was granted in special circumstances such as the use of evidence seen to be unreliable.

16. Act No. 15/1998 on the Judiciary set out the eligibility requirements for the nine Supreme Court justices appointed for an indefinite term, and the general rights and duties of judges, who must act independently and strictly according to the law and avoid conflicts of interest. The Act also regulated the functions of the Judicial Council, a largely administrative body composed of five members appointed by the Minister of Justice, which oversaw the financial affairs of the district courts, ruled on judicial assignments and transfers, and issued binding rules on judicial practice.

17. **Mr. Ando** asked if any independent body reviewed a prosecutor's decision not to prosecute a sexual crime.

18. **Mr. Kälin** observed that rape cases dismissed for lack of evidence nonetheless presumably involved a known suspect. Also, it was not clear to him why the single juvenile offender per year held in the prison system could not, like most convicts his age, serve his sentence at a facility run by the Child Welfare Office.

19. **Mr. Solari Yrigoyen** asked if it was true that overly lenient sentences were imposed for sexual crimes.

20. **Ms. Ragnarsdóttir** (Iceland) said that a public prosecutor's decision not to prosecute could be appealed by the individual concerned to the Ministry of Justice.

21. **Ms. Árnadóttir** (Iceland) said that sending a single juvenile offender to one of the smaller prisons rather than to a Child Welfare Office facility could often be a practical matter in such a large country as Iceland, and that the offenders themselves could request it.

22. **Ms. Ragnarsdóttir** (Iceland) said that the Government did not believe that overly lenient sentences were imposed for sexual crimes; article 194 of the General Penal Code stipulated imprisonment of 1 to 16 years for forced sexual intercourse or other

sexual intimacy, and article 195 imposed prison sentences of up to six years for other types of sexual crimes.

23. **Ms. Árnadóttir** (Iceland), referring to a comment made at a previous meeting concerning the timely submission of documents, said she regretted that Iceland's written replies had not been submitted earlier. She wondered whether the delegation should read out their replies in greater detail.

24. **The Chairperson** said that the late submission of documents had implications for the Committee's work, as it was difficult to have a proper debate unless documentation was available in all relevant official languages. She would appreciate it if the delegation could read out their replies in greater detail now that interpretation was provided.

25. She invited the delegation to address questions 10 to 18 on the list of issues.

Right to privacy (article 17 of the Covenant)

26. **Ms. Ragnarsdóttir** (Iceland), referring to question 10, said that the main role of the Data Protection Authority was to monitor the processing of data regarded as personal under the Act on the Protection of Privacy. The Authority arbitrated disputes, considered individual cases, handled applications for permits, analysed general trends in personal data protection, at both the national and international levels, and generally kept abreast of developments in that field. The Authority requested data for its own use only where it was needed to consider individual cases. Under article 28 of the Act, objections could be lodged against processing personal data that was incorrect, misleading, incomplete or had been registered without proper authorization. In such cases, appropriate corrections would be made, and the data would be deleted when it was no longer relevant. The Data Protection Authority also ruled in cases where a subject's request to have data erased was not honoured by the controller.

27. Referring to question 11, she said that the national health databank would have to provide legal justification for its operation, clearer definitions of its functions and assurances that information would not be traceable to individual persons. Pending thorough-going revisions to Act No. 138/1998, the databank remained inactive.

Freedom of conscience and religious belief (article 18 of the Covenant)

28. **Ms. Ragnarsdóttir** (Iceland), referring to question 12, said that while Christian studies, ethics and religion were a compulsory subject under the Icelandic Primary School Act, there had been no instances of discrimination against children who did not attend those classes. Schools were advised to take into account the increasing number of immigrant children in Iceland, to work with the families of those children in order to arrange for education in their own religions and cultures, and to make the most of the opportunities presented by diverse student bodies in order to promote increased understanding, mutual respect and tolerance. As a guarantee of the freedom of religion, individual pupils could be granted exemptions from certain compulsory subjects without any difficulty.

Rights to freedom of movement, privacy, opinion and peaceful assembly (articles 12, 17, 19 and 21 of the Covenant)

29. **Ms. Árnadóttir** (Iceland), referring to question 13, said that while the Icelandic authorities had decided to limit the number of individuals who could enter the country to participate in a planned protest during the visit of the President of the People's Republic of China, the demonstration had been neither prevented nor prohibited. In talks with Falun Gong members who had arrived in Iceland the week before the visit, Icelandic authorities had learned that some members did not intend to comply with police instructions to stay in defined protest areas. They had also learned from police sources elsewhere in Europe that, even in peaceful demonstrations, Falun Gong members had been known to push or rush through police lines. As the Icelandic police force was small and the participation of hundreds of foreigners in the planned protest could pose a risk to public safety, the Government had taken measures in accordance with their obligation under international law to ensure the security of foreign heads of State. The measures taken had not been aimed at limiting freedom of expression or preventing peaceful protests but rather, as the Ombudsman had concluded to ensure protection of the public by a relatively small law enforcement community. Thus, the Ministry of Justice had forwarded to Icelandair a list of Falun Gong members who had booked flights to Iceland but could be

expected to be denied entry into the country. The list had also been sent to Icelandic embassies in the United States of America, Norway, Denmark, the United Kingdom and France, so that the individuals concerned could be informed of the decision of the Icelandic authorities and assistance could be provided to them. After the visit, Icelandic authorities had destroyed all but one copy of the list of banned Falun Gong members.

30. Referring to question 14, she said that the description it contained of the incident involving anti-NATO protestors during a public celebration of Iceland's national day was not entirely correct. Although several individuals had been removed from the celebration area, they had been allowed to continue demonstrating elsewhere. Only one individual, who was intoxicated, had been taken to the police station. She referred to the Supreme Court's judgement of 1999 that particularly strict demands must be made with regard to the clarity and unambiguity of statute provisions limiting the right to public protest. The protestors had been asked to leave for the simple reason that no measures were in place to protect the Government in the area mentioned.

The right to democratic elections and conduct of public affairs (articles 25 and 26 of the Covenant)

31. **Ms. Árnadóttir** (Iceland), referring to question 15, stressed that all foreign nationals had the right to vote and stand for office in municipal elections provided that they fulfilled certain conditions. She nonetheless acknowledged that citizens of the Nordic countries did indeed benefit from preferential treatment. The reasons for such treatment were historical. Giving preferential treatment to citizens of neighbouring countries or countries with which there were strong ties was a well-known phenomenon in Europe and the rest of the world. Iceland had such ties with the Nordic countries, with which it shared a common culture and heritage and a long history of cooperation.

32. As to question 16, the Government's written replies explained in detail the system of appointments to the Supreme Court. In particular, before a person could be commissioned to judicial office, the Minister of Justice must seek the Supreme Court's opinion regarding the competency and qualifications of the applicant. Any applicant who, in the opinion of the Court, did not meet certain requirements could not be instituted in office.

33. As for the allegations that recent appointments had disregarded the opinion of the Ombudsman, she provided further details of the case concerning the appointment of a Supreme Court judge in 2003. Following a complaint by three of the eight applicants, the Ombudsman had found that the Minister of Justice had not complied with the Act on the Judiciary — since he had not sought the Supreme Court's opinion about the applicants' knowledge of a particular field of law, namely European law — and had violated the investigation rule of the Administrative Act. The Minister of Justice had subsequently stated before Parliament that, although he did not share the Ombudsman's interpretation of the Act on the Judiciary, he would consider the Ombudsman's findings closely. With that in mind, he had sought the Supreme Court's opinion twice when preparing a proposal for the appointment of a Supreme Court judge in October 2004.

The right to equality before the law (article 26 of the Covenant)

34. **Ms. Ragnarsdóttir** (Iceland), referring to question 17, said that under article 65 of the Constitution all persons were equal before the law. Foreign workers therefore had the same rights as Icelanders to work, education, social and medical services, the minimum wage, trade union membership, housing, and so on. She specified, however, that foreign workers were entitled to health care once they had been resident in Iceland for six months and that, if they were employed, their employer was responsible for their insurance under the Social Security Act. Special institutions had been established to improve relations between Icelanders and foreign nationals who intended to settle in Iceland and to help the latter become more familiar with Icelandic society and culture. She drew attention to a survey conducted in 2004 among foreign workers in Iceland from outside the European Economic Area, the results of which were detailed in the Government's written replies. Essentially, foreign workers suffered from very low levels of unemployment and considered their salaries to be on a par with those of their co-workers.

Rights of minorities (article 27 of the Covenant)

35. **Ms. Ragnarsdóttir** (Iceland), referring to question 18, said that there had been very few incidents of discrimination or expressions of xenophobia towards foreigners in Iceland. She referred to the case mentioned in paragraphs 107 and 108 of the report concerning the vice-chairman of an Association of Icelandic Nationalists who had been found guilty, under article 233 (a) of the General Penal Code, of publicly assaulting a group of people by derision, vilification and mockery on account of their nationality, colour and race. The case demonstrated that the Icelandic authorities took discrimination very seriously and were determined to punish anyone found guilty in that regard.

36. As for measures taken by the authorities, she said that provisions had been introduced into domestic law concerning prohibition of discrimination and equality before the law and drew attention, in particular, to article 65 of the Constitution, article 11 of the 1993 Administrative Procedures Act and articles 180 and 233 (a) of the General Penal Code. Under article 233 (a), anyone found guilty of publicly attacking a person or group of persons on the grounds mentioned was liable to a fine or imprisonment of up to two years. She also referred to article 1 of the 1997 Rights of Patients Act, which prohibited discrimination in the provision of health care.

37. In 2001 the Government had established the office of police ombudsman; the ombudsman acted as a link between the police and persons of foreign origin, providing the latter with such information as they required and, where necessary, referring them to the proper authority. The ombudsman worked in close cooperation with the International House in Reykjavík.

38. **Mr. Amor**, referring to article 18 of the Covenant, said that the existence of a National Church was acceptable under international law and did not in itself imply discrimination against other religions or beliefs. He was nonetheless concerned at the stipulation in law that in order to be registered, religious associations must practise faiths or beliefs linked to religions with historical or cultural roots, as that might result in discrimination against newer religious communities without such links.

39. He was also concerned at Iceland's attitude towards the Falun Gong. While the State clearly had a responsibility to ensure public order, such concerns should not lead to discrimination against groups with different beliefs. Moreover, while the Falun Gong must of course obey the law once inside the country, Iceland could not simply assume that they would disrupt the peace before they had even arrived.

40. The most worrying factor, in his view, was that the list of Falun Gong members had been circulated. No State could judge a person's beliefs provided that they manifested those beliefs in a legal manner. While he did not seek to defend any particular group, both article 18 and the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief must be respected. In his view, Iceland's response to the Falun Gong incident was an upsetting precedent.

41. **Mr. Wieruszewski** said that, while article 26 of the Covenant did not prohibit preferential treatment as such, he was concerned that the Committee might find itself in a predicament should a citizen of another nationality lodge a complaint on the grounds of unfair treatment and incompatibility with article 26. While he appreciated the historical reasons behind the provision relating to preferential treatment for citizens of Nordic countries, he wondered whether Iceland was considering removing it.

42. **Mr. Solari Yrigoyen** said that he would appreciate further information concerning the punishment given to the vice-chairman of the nationalist association found guilty of inciting racial hatred, the aims of that association, any measures taken against it and the existence of any other similar associations.

43. **Ms. Árnadóttir** (Iceland) said that freedom of religion had not been at issue in the Falun Gong case but rather the maintenance of public order by a small police force that was not backed up by an army or military reserve force. The Icelandic authorities had believed they were minimizing the harmful consequences of their decision by instructing Icelandair to warn certain Falun Gong members that they would be denied entry into the country and that there was no point in purchasing an airline ticket.

44. **Ms. Ragnarsdóttir** (Iceland) said that a penalty of 100,000 Icelandic kronúr ($2,000) had been imposed on the racist group under article 233 (a) of the General Penal Code. Since the judgement, nothing had been heard of the group, which was no longer active and no

longer maintained a website. To her knowledge, similar groups did not exist in Iceland.

45. **The Chairperson**, summing up the discussion, welcomed the State party's elimination of distinctions between children born in and out of wedlock, and its introduction of legislation to shift the burden of proof to employers in cases of alleged wage disparities between men and women. However, since the presentation of the State party's third periodic report, not much progress had been achieved in fully incorporating the provisions of the Covenant into domestic law. The Covenant must be a respected and free-standing international instrument in the eyes of Icelandic society, one which could be invoked without necessarily being associated with the European Convention on Human Rights.

46. She also requested clarification on a number of reservations to articles of the Covenant. In presenting its third periodic report, for example, the Icelandic delegation had indicated that it had lifted its reservation to article 13, and yet as recently as the year before, the reservation had still been on record. Furthermore, it was not clear why the State party was clinging to its reservation to article 10, which concerned only an insignificant number of minors. She would also appreciate an explanation of the State party's intentions with regard to its reservation to article 20.

47. While she understood that Iceland's legal system did not lend itself to the adoption of legislation prohibiting the use of evidence extracted by torture, the role of the judge in rejecting such evidence should have been more clearly explained in the responses to the list of issues. She questioned the inclusion of roadblocks in the State party's definition of terrorism; for example, farmers who staged roadblock protests, at times resulting in harm to life or property, could hardly be called terrorists. Lastly, she believed that the failure to prosecute rape cases for lack of evidence was an old-fashioned approach in an era when the expertise of specially trained police officers, judges, doctors and psychologists could be pieced together to make a case against perpetrators. She saw little justification for the reluctance to prosecute rape cases without overwhelming proof; while convictions should be absolutely doubt-free, traces of doubt should never impede prosecution.

48. **Mr. Hannesson** (Iceland), in closing, noted that Iceland had evolved from a small, close-knit and homogeneous society into a one with an immigrant population that was now confronting and coming to terms with huge changes.

The meeting rose at 4.50 p.m.